

Calendar No. 264

108TH CONGRESS
1ST SESSION

S. 1490

To eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30 (legislative day, JULY 21), 2003

Mr. McCONNELL (for himself, Mrs. DOLE, Mr. BUNNING, Mr. HOLLINGS, Mr. EDWARDS, Mr. MILLER, Mr. FRIST, Mr. WARNER, Mr. ALLEN, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mr. BAYH) introduced the following bill; which was read the first time

SEPTEMBER 2, 2003

Read the second time and placed on the calendar

A BILL

To eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Tobacco Market Transition Act of 2003”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TERMINATION OF CURRENT TOBACCO PROGRAMS

Sec. 101. Termination of tobacco production adjustment programs.

Sec. 102. Termination of tobacco price support program.

Sec. 103. Liability.

TITLE II—TOBACCO ASSISTANCE

Sec. 201. Tobacco assistance.

“Subtitle E—Tobacco Assistance

“Sec. 380A. Definitions.

**“CHAPTER 1—PAYMENTS TO TOBACCO QUOTA HOLDERS AND TRADITIONAL
PRODUCERS**

“Sec. 380B. Transition payments to tobacco quota holders.

“Sec. 380C. Direct payments to traditional producers of tobacco.

“Sec. 380D. Administration.

“CHAPTER 2—TOBACCO QUALITY AND QUANTITY

“Sec. 380G. Tobacco Quality Board.

“Sec. 380H. Production Boards.

“Sec. 380I. Acreage limitation program.

“CHAPTER 3—TOBACCO MARKET STABILITY PROGRAM

“Sec. 380M. Tobacco market stability program.

“CHAPTER 4—TOBACCO COMMUNITY ECONOMIC DEVELOPMENT GRANTS

“Sec. 380O. Tobacco community economic development grants.

“CHAPTER 5—COMPETITIVE GRANTS FOR TOBACCO RESEARCH

“Sec. 380Q. Competitive grants for tobacco research.

“CHAPTER 6—FUNDING

“Sec. 380S. Tobacco Trust Fund.

“Sec. 380T. Assessments.

“Sec. 380U. Commodity Credit Corporation.

“Sec. 380V. Transition provisions.

Sec. 202. Conforming amendments.

TITLE III—IMPLEMENTATION

Sec. 301. Regulations.

Sec. 302. Effective date.

1 **TITLE I—TERMINATION OF**
2 **CURRENT TOBACCO PROGRAMS**

3 **SEC. 101. TERMINATION OF TOBACCO PRODUCTION AD-**
4 **JUSTMENT PROGRAMS.**

5 (a) TOBACCO STATISTICS.—The Act of January 14,
6 1929 (45 Stat. 1079; 7 U.S.C. 501 et seq.) is repealed.

7 (b) TOBACCO STANDARDS.—The Tobacco Inspection
8 Act (7 U.S.C. 511 et seq.) is repealed.

9 (c) TOBACCO INSPECTIONS.—Section 213 of the To-
10 bacco Adjustment Act of 1983 (7 U.S.C. 511r) is repealed.

11 (d) TOBACCO CONTROL.—The Act of April 25, 1936
12 (commonly known as the Tobacco Control Act; 7 U.S.C.
13 515 et seq.), is repealed.

14 (e) COMMODITY HANDLING ORDERS.—Section
15 8c(2)(A) of the Agricultural Adjustment Act (7 U.S.C.
16 608c(2)(A)), reenacted with amendments by the Agricul-
17 tural Marketing Agreement Act of 1937, is amended by
18 striking “tobacco,”.

19 (f) PROCESSING TAX.—Section 9(b) of the Agricul-
20 tural Adjustment Act (7 U.S.C. 609(b)), reenacted with
21 amendments by the Agricultural Marketing Agreement
22 Act of 1937, is amended—

1 (1) in paragraph (2), by striking “tobacco,”;
 2 and

3 (2) in paragraph (6)(B)(i), by striking “, or, in
 4 the case of tobacco, is less than the fair exchange
 5 value by not more than 10 per centum,”.

6 (g) BURLEY TOBACCO IMPORT REVIEW.—Section 3
 7 of Public Law 98–59 (7 U.S.C. 625) is repealed.

8 (h) DECLARATION OF POLICY.—Section 2 of the Ag-
 9 ricultural Adjustment Act of 1938 (7 U.S.C. 1282) is
 10 amended by striking “tobacco,”.

11 (i) DEFINITIONS.—Section 301(b) of the Agricultural
 12 Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

13 (1) in paragraph (3)—

14 (A) by striking subparagraph (C); and

15 (B) by redesignating subparagraph (D) as
 16 subparagraph (C);

17 (2) in paragraph (6)(A), by striking “tobacco,”;

18 (3) in paragraph (10)—

19 (A) by striking subparagraph (B); and

20 (B) by redesignating subparagraph (C) as
 21 subparagraph (B);

22 (4) in paragraph (11)(B), by striking “and to-
 23 bacco”;

24 (5) in paragraph (12), by striking “tobacco,”;

25 (6) in paragraph (14)—

1 (A) in subparagraph (A), by striking
2 “(A)”; and

3 (B) by striking subparagraphs (B), (C),
4 and (D);
5 (7) by striking paragraph (15);
6 (8) in paragraph (16)—

7 (A) by striking subparagraph (B); and

8 (B) by redesignating subparagraph (C) as
9 subparagraph (B);

10 (9) by striking paragraph (17); and

11 (10) by redesignating paragraph (16) as para-
12 graph (15).

13 (j) PARITY PAYMENTS.—Section 303 of the Agricul-
14 tural Adjustment Act of 1938 (7 U.S.C. 1303) is amended
15 in the first sentence by striking “rice, or tobacco,” and
16 inserting “or rice,”.

17 (k) MARKETING QUOTAS.—Part I of subtitle B of
18 title III of the Agricultural Adjustment Act of 1938 (7
19 U.S.C. 1311 et seq.) is repealed.

20 (l) ADMINISTRATIVE PROVISIONS.—Section 361 of
21 the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361)
22 is amended by striking “tobacco,”.

23 (m) ADJUSTMENT OF QUOTAS.—Section 371 of the
24 Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is
25 amended—

1 (1) in the first sentence of subsection (a), by
 2 striking “rice, or tobacco” and inserting “or rice”;
 3 and

4 (2) in the first sentence of subsection (b), by
 5 striking “rice, or tobacco” and inserting “or rice”.

6 (n) REPORTS AND RECORDS.—Section 373 of the Ag-
 7 ricultural Adjustment Act of 1938 (7 U.S.C. 1373) is
 8 amended—

9 (1) by striking “rice, or tobacco” each place it
 10 appears in subsections (a) and (b) and inserting “or
 11 rice”; and

12 (2) in subsection (a)—

13 (A) in the first sentence, by striking “all
 14 persons engaged in the business of redrying,
 15 prizing, or stemming tobacco for producers,”;
 16 and

17 (B) in the last sentence, by striking
 18 “\$500;” and all that follows through the period
 19 at the end of the sentence and inserting
 20 “\$500.”.

21 (o) REGULATIONS.—Section 375 of the Agricultural
 22 Adjustment Act of 1938 (7 U.S.C. 1375) is amended—

23 (1) in subsection (a), by striking “peanuts, or
 24 tobacco” and inserting “or peanuts”; and

25 (2) by striking subsection (c).

1 (p) EMINENT DOMAIN.—Section 378 of the Agricul-
 2 tural Adjustment Act of 1938 (7 U.S.C. 1378) is amend-
 3 ed—

4 (1) in the first sentence of subsection (c), by
 5 striking “cotton, and tobacco” and inserting “and
 6 cotton”; and

7 (2) by striking subsections (d), (e), and (f).

8 (q) BURLEY TOBACCO FARM RECONSTITUTION.—
 9 Section 379 of the Agricultural Adjustment Act of 1938
 10 (7 U.S.C. 1379) is amended—

11 (1) in subsection (a)—

12 (A) by striking “(a)”; and

13 (B) in paragraph (6), by striking “, but
 14 this clause (6) shall not be applicable in the
 15 case of burley tobacco”; and

16 (2) by striking subsections (b) and (c).

17 (r) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the
 18 Act of April 16, 1955 (Public Law 89–12; 7 U.S.C. 1314c
 19 note), is repealed.

20 (s) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The
 21 Act of July 12, 1952 (7 U.S.C. 1315), is repealed.

22 (t) TRANSFER OF ALLOTMENTS.—Section 703 of the
 23 Food and Agriculture Act of 1965 (7 U.S.C. 1316) is re-
 24 pealed.

1 (u) ADVANCE RECOURSE LOANS.—Section
 2 13(a)(2)(B) of the Food Security Improvements Act of
 3 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking
 4 “tobacco and”.

5 (v) TOBACCO FIELD MEASUREMENT.—Section 1112
 6 of the Omnibus Budget Reconciliation Act of 1987 (Public
 7 Law 100–203) is amended by striking subsection (c).

8 **SEC. 102. TERMINATION OF TOBACCO PRICE SUPPORT**
 9 **PROGRAM.**

10 (a) PARITY PRICE SUPPORT.—Section 101 of the Ag-
 11 ricultural Act of 1949 (7 U.S.C. 1441) is amended—

12 (1) in the first sentence of subsection (a), by
 13 striking “tobacco (except as otherwise provided here-
 14 in), corn,” and inserting “corn”;

15 (2) by striking subsections (c), (g), (h), and (i);

16 (3) in subsection (d)(3)—

17 (A) by striking “, except tobacco,”; and

18 (B) by striking “and no price support shall
 19 be made available for any crop of tobacco for
 20 which marketing quotas have been disapproved
 21 by producers;”; and

22 (4) by redesignating subsections (d) and (e) as
 23 subsections (c) and (d), respectively.

24 (b) TERMINATION OF TOBACCO PRICE SUPPORT AND
 25 NO NET COST PROVISIONS.—Sections 106, 106A, and

1 106B of the Agricultural Act of 1949 (7 U.S.C. 1445,
2 1445–1, 1445–2) are repealed.

3 (c) DEFINITION OF BASIC AGRICULTURAL COM-
4 MODITY.—Section 408(c) of the Agricultural Act of 1949
5 (7 U.S.C. 1428(c)) is amended by striking “tobacco,”.

6 (d) REVIEW OF BURLEY TOBACCO IMPORTS.—Sec-
7 tion 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

8 (e) POWERS OF COMMODITY CREDIT CORPORA-
9 TION.—Section 5 of the Commodity Credit Corporation
10 Charter Act (15 U.S.C. 714c) is amended by inserting
11 “(other than tobacco)” after “agricultural commodities”
12 each place it appears.

13 **SEC. 103. LIABILITY.**

14 This title and the amendments made by this title
15 shall not affect the liability of any person under any provi-
16 sion of law with respect to any crop of tobacco planted
17 before the effective date prescribed in section 402.

18 **TITLE II—TOBACCO ASSISTANCE**

19 **SEC. 201. TOBACCO ASSISTANCE.**

20 Title III of the Agricultural Adjustment Act of 1938
21 is amended by inserting after subtitle D (7 U.S.C. 1379a
22 et seq.) the following:

23 **“Subtitle E—Tobacco Assistance**

24 **“SEC. 380A. DEFINITIONS.**

25 “In this subtitle:

1 “(1) ACTIVE PRODUCER OF TOBACCO.—The
2 term ‘active producer of tobacco’ means a person
3 that—

4 “(A) is actively engaged in the production
5 of tobacco marketed or considered planted; and

6 “(B) shares in the risk of producing the
7 tobacco.

8 “(2) APPLICABLE FISCAL YEAR.—The term ‘ap-
9 plicable fiscal year’ means each of fiscal years 2004
10 through 2009.

11 “(3) BASE PERIOD.—The term ‘base period’
12 means the 1-year period ending the June 30 pre-
13 ceding each applicable fiscal year.

14 “(4) CONSIDERED PLANTED.—The term ‘con-
15 sidered planted’ means tobacco planted but failed to
16 be produced as a result of a natural disaster, as de-
17 termined by the Secretary.

18 “(5) DEPARTMENT.—The term ‘Department’
19 means the Department of Agriculture.

20 “(6) ELIGIBLE STATE.—The term ‘eligible
21 State’ means each of the States of Alabama, Arkan-
22 sas, Florida, Georgia, Indiana, Kansas, Kentucky,
23 Minnesota, Missouri, North Carolina, Ohio, Okla-
24 homa, South Carolina, Tennessee, Virginia, West
25 Virginia, and Wisconsin.

1 “(7) IMPACTED COUNTY.—The term ‘impacted
2 county’ means a county in an eligible State in which
3 tobacco producers have sustained a reduction in
4 gross receipts from the sale of tobacco for the base
5 period for the applicable fiscal year, as compared to
6 the base period for fiscal year 2002.

7 “(8) MARKET SHARE.—The term ‘market
8 share’ means the share of each manufacturer or im-
9 porter of a class of tobacco product (expressed as a
10 decimal to the fourth place) of the total volume of
11 domestic sales of the class of tobacco product during
12 the base period for the applicable fiscal year for an
13 assessment under section 380T.

14 “(9) PRODUCTION BOARD.—The term ‘Produc-
15 tion Board’ means a Production Board established
16 for a kind of tobacco under section 380H.

17 “(10) QUOTA TOBACCO.—The term ‘quota to-
18 bacco’ means a kind of tobacco that is subject to a
19 farm marketing quota or farm acreage allotment for
20 the 2002 tobacco marketing years under a mar-
21 keting quota or allotment program established under
22 part I of subtitle B (as in effect before the effective
23 date of this subtitle).

24 “(11) TOBACCO.—The term ‘tobacco’ means
25 each of the following kinds of tobacco:

1 “(A) Flue-cured tobacco, comprising types
2 11, 12, 13, and 14.

3 “(B) Fire-cured tobacco, comprising types
4 22 and 23.

5 “(C) Dark air-cured tobacco, comprising
6 types 35 and 36.

7 “(D) Virginia sun-cured tobacco, com-
8 prising type 37.

9 “(E) Virginia fire-cured tobacco, com-
10 prising type 21.

11 “(F) Burley tobacco, comprising type 31.

12 “(G) Cigar-filler and cigar-binder tobacco,
13 comprising types 42, 43, 44, 53, 54, and 55.

14 “(12) TOBACCO QUALITY BOARD.—The term
15 ‘Tobacco Quality Board’ means the Tobacco Quality
16 Board established under section 380G.

17 “(13) TOBACCO QUOTA HOLDER.—The term
18 ‘tobacco quota holder’ means a person that is con-
19 sidered an tobacco quota holder under section
20 380B(b).

21 “(14) TOBACCO TRUST FUND.—The term ‘To-
22 bacco Trust Fund’ means the Tobacco Trust Fund
23 established under section 380S.

24 “(15) TRADITIONAL PRODUCER OF TOBACCO.—
25 The term ‘traditional producer of tobacco’ means a

1 person that, for at least 1 of the 2000, 2001, or
2 2002 tobacco marketing years—

3 “(A) was actively engaged in the produc-
4 tion of tobacco marketed, or considered planted,
5 under a marketing quota established under part
6 I of subtitle B (as in effect before the effective
7 date of this subtitle); and

8 “(B) shared in the risk of producing the
9 tobacco.

10 “(16) TRADITIONAL TOBACCO COUNTY.—

11 “(A) IN GENERAL.—The term ‘traditional
12 tobacco county’ means a county in the United
13 States that had 1 or more farms operated by
14 traditional producers of tobacco under a mar-
15 keting quota for at least 1 of the marketing
16 years described in paragraph (15).

17 “(B) INCLUSION.—For the purpose of de-
18 termining the crop acreage base of an active
19 producer of tobacco for a kind of tobacco pro-
20 duced in the State of Georgia under section
21 380I(c)(3), the term ‘traditional tobacco coun-
22 ty’ includes a county that is contiguous to a
23 county described in subparagraph (A).

1 **“CHAPTER 1—PAYMENTS TO TOBACCO**
2 **QUOTA HOLDERS AND TRADITIONAL**
3 **PRODUCERS**

4 **“SEC. 380B. TRANSITION PAYMENTS TO TOBACCO QUOTA**
5 **HOLDERS.**

6 “(a) IN GENERAL.—The Secretary shall make transi-
7 tion payments to each tobacco quota holder.

8 “(b) TOBACCO QUOTA HOLDER.—

9 “(1) IN GENERAL.—Except as otherwise pro-
10 vided in this subsection, the Secretary shall consider
11 a person to be a tobacco quota holder under this sec-
12 tion if the person was an owner of a farm, as of July
13 1, 2002, for which a basic tobacco farm marketing
14 quota or farm acreage allotment for quota tobacco
15 was established with respect to the 2002 tobacco
16 marketing year under a marketing quota program
17 established under part I of subtitle B (as in effect
18 before the effective date of this subtitle).

19 “(2) EFFECT OF PURCHASE CONTRACT.—If
20 there was an agreement for the purchase of all or
21 part of a farm described in paragraph (1) as of July
22 1, 2002, and the parties to the sale are unable to
23 agree to the disposition of eligibility for payments
24 under this section, the Secretary, taking into ac-
25 count any transfer of quota that has been agreed to,

1 shall provide for the equitable division of the pay-
2 ments among the parties by adjusting the deter-
3 mination of who is the tobacco quota holder with re-
4 spect to particular pounds of the quota.

5 “(3) EFFECT OF AGREEMENT FOR PERMANENT
6 QUOTA TRANSFER.—If the Secretary determines
7 that there was in existence, as of July 1, 2002, an
8 agreement for the permanent transfer of quota, but
9 that the transfer was not completed by that date,
10 the Secretary shall consider the tobacco quota holder
11 to be the party to the agreement that, as of that
12 date, was the owner of the farm to which the quota
13 was to be transferred.

14 “(4) PROTECTED BASES.—A person that owns
15 a farm with a tobacco poundage quota that is pro-
16 tected under a conservation reserve program con-
17 tract entered into under section 1231 of the Food
18 Security Act of 1985 (16 U.S.C. 3831) shall be con-
19 sidered to be a tobacco quota holder with respect to
20 the protected poundage.

21 “(5) SECRETARIAL DISCRETION.—Notwith-
22 standing paragraphs (1) through (4), the Secretary
23 may declare a person to be the tobacco quota holder
24 with respect to certain pounds of quota or otherwise
25 for purposes of this section if the Secretary—

“(A) considers the declaration is needed to ensure a fair and equitable administration of the payments provided for in this section, including such actions as are necessary to prevent payments based on speculation; and

“(B) does not, in exercising the authority provided under this paragraph, effectively increase the total quota in excess of the quota that was available to all producers for the 2002 marketing year for other than seed or experimental use.

“(6) LIMITATION ON QUANTITY OF QUOTA HELD.—

“(A) IN GENERAL.—A person shall be considered a tobacco quota holder for purposes of this section only with respect to that number of permanent pounds that qualifies the person as a tobacco quota holder.

“(B) INCLUDED QUOTA.—The determination of the tobacco poundage amount for which the person qualifies shall—

“(i) be made based on the 2002 crop quota levels; and

“(ii) take into account sales of the farm that occurred before July 1, 2002,

1 and any permanent transfers of quota that
2 took place before that date.

3 “(c) APPLICATION.—

4 “(1) IN GENERAL.—To be eligible to receive a
5 payment under this section, a person shall submit to
6 the Secretary an application containing such infor-
7 mation as the Secretary may require to demonstrate
8 to the satisfaction of the Secretary that the person
9 is a tobacco quota holder.

10 “(2) ADMINISTRATION.—The application shall
11 be submitted within such time, in such form, and in
12 such manner as the Secretary may require.

13 “(d) BASE QUOTA LEVEL.—

14 “(1) IN GENERAL.—The Secretary shall estab-
15 lish a base quota level applicable to each tobacco
16 quota holder, as determined under this subsection.

17 “(2) LEVEL.—The base quota level for each to-
18 bacco quota holder shall be equal to the basic to-
19 bacco marketing quota under part I of subtitle B (as
20 in effect before the effective date of this subtitle) for
21 the 2002 marketing year for quota tobacco on the
22 farm owned by the tobacco quota holder.

23 “(e) PAYMENT.—The Secretary shall make payments
24 to each tobacco quota holder under subsection (b) in an
25 amount obtained by multiplying—

1 “(1)(A) for fiscal year 2004, \$1.60 per pound;
 2 “(B) for fiscal year 2005, \$1.50 per pound;
 3 “(C) for fiscal year 2006, \$1.40 per pound;
 4 “(D) for fiscal year 2007, \$1.30 per pound;
 5 “(E) for fiscal year 2008, \$1.20 per pound; and
 6 “(F) for fiscal year 2009, \$1.00 per pound; by
 7 “(2) the base quota level established for the
 8 quota holder under subsection (d).

9 “(f) TIME FOR PAYMENT.—The payments to tobacco
 10 quota holders required under this section shall be made
 11 by, to the maximum extent practicable, the date that is
 12 180 days after the date of enactment of this subtitle, No-
 13 vember 1, 2004, and each November 1 thereafter through
 14 November 1, 2008, for each of fiscal years 2004 through
 15 2009, as applicable.

16 **“SEC. 380C. DIRECT PAYMENTS TO TRADITIONAL PRO-**
 17 **DUCERS OF TOBACCO.**

18 “(a) IN GENERAL.—The Secretary shall make direct
 19 payments under this section to traditional producers of to-
 20 bacco.

21 “(b) ELIGIBILITY.—

22 “(1) IN GENERAL.—To be eligible to receive a
 23 payment under this section, a person shall submit to
 24 the Secretary an application containing such infor-
 25 mation as the Secretary may require to demonstrate

1 to the satisfaction of the Secretary that the person
 2 is a traditional producer of tobacco.

3 “(2) ADMINISTRATION.—The application shall
 4 be submitted within such time, in such form, and in
 5 such manner as the Secretary may require.

6 “(c) BASE QUOTA LEVEL.—

7 “(1) IN GENERAL.—The Secretary shall estab-
 8 lish a base quota level applicable to each traditional
 9 producer of tobacco, as determined under this sub-
 10 section.

11 “(2) FLUE-CURED AND BURLEY TOBACCO.—In
 12 the case of Flue-cured tobacco (types 11, 12, 13,
 13 and 14) and Burley tobacco (type 31), the base
 14 quota level for each tobacco quota holder shall be
 15 equal to the effective tobacco marketing quota (irre-
 16 spective of disaster lease and transfers) under part
 17 I of subtitle B (as in effect before the effective date
 18 of this subtitle) for the 2002 marketing year for
 19 quota tobacco produced on the farm.

20 “(3) OTHER KINDS OF TOBACCO.—In the case
 21 of each kind of tobacco other than Flue-cured to-
 22 bacco (types 11, 12, 13, and 14) and Burley tobacco
 23 (type 31), for the purpose of calculating a payment
 24 to a traditional producer of tobacco, the base quota

1 level for the traditional producer of tobacco shall be
2 the quantity obtained by multiplying—

3 “(A) the basic tobacco farm acreage allot-
4 ment for the 2002 marketing year established
5 by the Secretary for quota tobacco produced on
6 the farm; by

7 “(B) the actual yield of the crop of quota
8 tobacco produced on the farm.

9 “(d) PAYMENT.—

10 “(1) IN GENERAL.—Subject to paragraph (2),
11 the Secretary shall make payments to each tradi-
12 tional producer of tobacco, as determined under sub-
13 section (b), in an amount obtained by multiplying—

14 “(A)(i) for fiscal year 2004, 75 cents per
15 pound;

16 “(ii) for fiscal year 2005, 75 cents per
17 pound;

18 “(iii) for fiscal year 2006, 70 cents per
19 pound;

20 “(iv) for fiscal year 2007, 65 cents per
21 pound;

22 “(v) for fiscal year 2008, 60 cents per
23 pound; and

24 “(vi) for fiscal year 2009, 55 cents per
25 pound; by

1 “(B) the base quota level established for
2 the traditional producer of tobacco under sub-
3 section (c).

4 “(2) PAYMENT RATE.—The rate for payments
5 to a traditional producer of quota tobacco under
6 paragraph (1)(A) shall be equal to—

7 “(A) in the case of a person that produced
8 quota tobacco marketed, or considered planted,
9 under a marketing quota for all 3 of the 2000,
10 2001, and 2002 tobacco marketing years, the
11 rate prescribed under paragraph (1)(A) for the
12 applicable fiscal year;

13 “(B) in the case of a person that produced
14 quota tobacco marketed, or considered planted,
15 under a marketing quota for not more than 2
16 of the 2000, 2001, and 2002 tobacco marketing
17 years, $\frac{2}{3}$ of the rate prescribed under para-
18 graph (1)(A) for the applicable fiscal year; and

19 “(C) in the case of a person that produced
20 quota tobacco marketed, or considered planted,
21 under a marketing quota for not more than 1
22 of the 2000, 2001, and 2002 tobacco marketing
23 years, $\frac{1}{3}$ of the rate prescribed under para-
24 graph (1)(A) for the applicable fiscal year.

1 “(e) TIME FOR PAYMENT.—The payments to tradi-
 2 tional producers of tobacco required under this section
 3 shall be made by, to the maximum extent practicable, the
 4 date that is 180 days after the date of enactment of this
 5 subtitle, November 1, 2004, and each November 1 there-
 6 after through November 1, 2008, for each of fiscal years
 7 2004 through 2009, as applicable.

8 **“SEC. 380D. ADMINISTRATION.**

9 “(a) RESOLUTION OF DISPUTES.—

10 “(1) IN GENERAL.—Any dispute regarding the
 11 eligibility of a person to receive a payment under
 12 this subtitle, or the amount of the payment, may be
 13 appealed to the county committee established under
 14 section 8 of the Soil Conservation and Domestic Al-
 15 lotment Act (16 U.S.C. 590h) for the county or
 16 other area in which the farming operation of the
 17 person is located.

18 “(2) NATIONAL APPEALS DIVISION.—Any ad-
 19 verse determination of a county committee under
 20 subsection (a) may be appealed to the National Ap-
 21 peals Division established under subtitle H of the
 22 Department of Agriculture Reorganization Act of
 23 1994 (7 U.S.C. 6991 et seq.).

24 “(b) USE OF QUALIFIED FINANCIAL INSTITU-
 25 TIONS.—The Secretary may use qualified financial institu-

1 tions to manage assets, make payments, and otherwise
 2 carry out this subtitle.

3 **“CHAPTER 2—TOBACCO QUALITY AND**
 4 **QUANTITY**

5 **“SEC. 380G. TOBACCO QUALITY BOARD.**

6 “(a) IN GENERAL.—The Secretary shall establish a
 7 permanent advisory board within the Department, to be
 8 known as the ‘Tobacco Quality Board’.

9 “(b) MEMBERSHIP.—

10 “(1) IN GENERAL.—The Tobacco Quality
 11 Board shall consist of 13 members, of which—

12 “(A) 5 members shall be appointed by the
 13 Secretary from nominations submitted by rep-
 14 resentatives of tobacco producers in the United
 15 States, including at least—

16 “(i) 1 representative of Flue-cured to-
 17 bacco producers;

18 “(ii) 1 representative of Burley to-
 19 bacco producers; and

20 “(iii) 1 representative of dark fire-
 21 cured tobacco producers;

22 “(B) 5 members shall be appointed by the
 23 Secretary from nominations submitted by rep-
 24 resentatives of tobacco product manufacturers
 25 in the United States, including at least—

1 “(i) 1 representative of smokeless to-
 2 bacco product manufacturers; and

3 “(ii) 1 representative of export dealers
 4 of tobacco and tobacco products; and

5 “(C) 3 at-large members shall be ap-
 6 pointed by the Secretary, including at least 1
 7 officer or employee of the Department.

8 “(2) CHAIRPERSON.—The Secretary shall ap-
 9 point the chairperson of the Tobacco Quality Board,
 10 with a different member serving as chairperson of
 11 the Tobacco Quality Board each term.

12 “(3) TERMS.—Each member of the Tobacco
 13 Quality Board shall serve for 2-year terms, except
 14 that the terms of the members first appointed to the
 15 Tobacco Quality Board shall be staggered so as to
 16 establish a rotating membership of the Tobacco
 17 Quality Board, as determined by the Secretary.

18 “(c) DUTIES.—The Tobacco Quality Board shall—

19 “(1) determine and describe the physical char-
 20 acteristics of tobacco produced in the United States
 21 and unmanufactured tobacco imported into the
 22 United States;

23 “(2) assemble and evaluate, in a systematic
 24 manner, concerns and problems with the quality of
 25 tobacco produced in the United States, expressed by

1 domestic and foreign buyers and manufacturers of
2 tobacco products;

3 “(3) review data collected by Federal agencies
4 on the physical and chemical integrity of tobacco
5 produced in the United States and unmanufactured
6 tobacco imported into the United States, to ensure
7 that tobacco being used in domestically-manufac-
8 tured tobacco products is of the highest quality and
9 is free from prohibited physical and chemical agents;

10 “(4) investigate and communicate to the Sec-
11 retary—

12 “(A) conditions with respect to the produc-
13 tion of tobacco that discourage improvements in
14 the quality of tobacco produced in the United
15 States; and

16 “(B) recommendations for regulatory
17 changes that would address tobacco quality
18 issues;

19 “(5) conduct oversight regarding tobacco mar-
20 keting issues (such as opening sales dates and mar-
21 keting regulations) applicable to auction markets;

22 “(6) provide assistance to Federal agencies on
23 actions taken by the Federal agencies that affect the
24 quality or quantity of tobacco produced in the
25 United States;

1 “(7) not later than a date determined by the
 2 Secretary, make recommendations to the Secretary,
 3 and the applicable Production Board established for
 4 the kind of tobacco, on the range of base years for
 5 the maximum crop acreage base under section
 6 380I(c)(3)(B) for each crop of each kind of tobacco,
 7 except that the range of base years shall be the crop
 8 years for the 1998 through 2002 crops unless other-
 9 wise determined by the Tobacco Quality Board; and

10 “(8) carry out such other related activities as
 11 are assigned to the Tobacco Quality Board by the
 12 Secretary.

13 “(d) ADMINISTRATION.—The Secretary shall provide
 14 the Tobacco Quality Board with (as determined by the
 15 Secretary)—

16 “(1) a staff that is—

17 “(A) experienced in the sampling and anal-
 18 ysis of unmanufactured tobacco; and

19 “(B) capable of collecting data and moni-
 20 toring tobacco production information; and

21 “(2) other resources and information necessary
 22 for the Tobacco Quality Board to perform the duties
 23 of the Tobacco Quality Board under this subtitle, in-
 24 cluding information concerning acreage devoted to
 25 the production of each kind of tobacco.

1 “(e) APPLICABILITY OF FEDERAL ADVISORY COM-
 2 MITTEE ACT.—The Federal Advisory Committee Act (5
 3 U.S.C. App.) shall not apply to the Tobacco Quality
 4 Board.

5 **“SEC. 380H. PRODUCTION BOARDS.**

6 “(a) IN GENERAL.—The Secretary shall establish a
 7 permanent advisory board for each kind of tobacco, to be
 8 known as a ‘Production Board’.

9 “(b) MEMBERSHIP.—

10 “(1) IN GENERAL.—Subject to paragraph (2), a
 11 Production Board for a kind of tobacco shall consist
 12 of—

13 “(A) not more than 10 members appointed
 14 by the Secretary from nominations submitted
 15 by representatives of producers of that kind of
 16 tobacco in the United States; and

17 “(B) 1 officer or employee of the Depart-
 18 ment appointed by the Secretary.

19 “(2) ALLOCATION OF MEMBERSHIP.—In ap-
 20 pointing members to a Production Board established
 21 for a kind of tobacco, the number of members ap-
 22 pointed by the Secretary to represent each State
 23 shall, to the maximum extent practicable, bear the
 24 same ratio to the total number of members of the
 25 Production Board as—

1 “(A) the total volume of domestic sales of
 2 the kind of tobacco produced in the State dur-
 3 ing the most recent period for which data is
 4 available; bears to

5 “(B) the total volume of domestic sales of
 6 the kind of tobacco produced in all States dur-
 7 ing the most recent period for which data is
 8 available.

9 “(3) CHAIRPERSON.—The Secretary shall ap-
 10 point the chairperson of a Production Board, with a
 11 different member serving as chairperson of the Pro-
 12 duction Board each term.

13 “(4) TERMS.—Each member of a Production
 14 Board shall serve for 2-year terms, except that the
 15 terms of the members first appointed to the Produc-
 16 tion Board shall be staggered so as to establish a ro-
 17 tating membership of the Production Board, as de-
 18 termined by the Secretary.

19 “(c) DUTIES.—A Production Board established for a
 20 kind of tobacco shall—

21 “(1) not later than a date determined by the
 22 Secretary, make recommendations to the Secretary
 23 on the base year, within the range of base years rec-
 24 ommended by the Tobacco Quality Board under sec-
 25 tion 380G(c)(7), for the maximum crop acreage base

1 under section 380I(c)(3)(B) for each crop of each
 2 kind of tobacco; and

3 “(2) carry out such other related activities as
 4 are assigned to the Production Board by the Sec-
 5 retary.

6 “(d) ADMINISTRATION.—The Secretary shall provide
 7 each Production Board established for a kind of tobacco
 8 with (as determined by the Secretary)—

9 “(1) a staff that is knowledgeable about pro-
 10 duction and marketing of that kind of tobacco; and

11 “(2) other resources and information necessary
 12 for the Production Board to perform the duties of
 13 the Production Board under this subtitle, including
 14 information concerning acreage devoted to the pro-
 15 duction of each kind of tobacco.

16 “(e) APPLICABILITY OF FEDERAL ADVISORY COM-
 17 MITTEE ACT.—The Federal Advisory Committee Act (5
 18 U.S.C. App.) shall not apply to a Production Board.

19 **“SEC. 380I. ACREAGE LIMITATION PROGRAM.**

20 “(a) DEFINITIONS.—In this section:

21 “(1) CROP ACREAGE BASE.—The term ‘crop
 22 acreage base’ means the crop acreage base for a
 23 kind of tobacco for a crop for an active producer of
 24 tobacco, as determined by the Secretary under sub-
 25 section (c)(3).

1 “(2) PERMITTED ACREAGE.—The term ‘per-
2 mitted acreage’ means the number of acres devoted
3 to the production of a kind of tobacco consistent
4 with the annual acreage limitation program an-
5 nounced by the Secretary for the kind of tobacco, as
6 determined by the Secretary.

7 “(b) ANNOUNCEMENT.—

8 “(1) IN GENERAL.—The Secretary (in consulta-
9 tion with the Tobacco Quality Board and the appli-
10 cable Production Board) shall establish and main-
11 tain an acreage limitation program for each crop of
12 each kind of tobacco.

13 “(2) SUPPLY.—In establishing and carrying out
14 an acreage limitation program for a crop of a kind
15 of tobacco, the Secretary shall determine whether
16 the total supply of that kind of tobacco, in the ab-
17 sence of an acreage limitation program, will be ex-
18 cessive, taking into account the need for an adequate
19 carry-over to maintain reasonable and stable sup-
20 plies and prices.

21 “(3) DEADLINE.—The Secretary (in consulta-
22 tion with the Tobacco Quality Board and the appli-
23 cable Production Board) shall announce the annual
24 acreage limitation program for each kind of tobacco
25 not later than December 15 of the calendar year

preceding the year in which the crop is harvested,
except that in the case of the 2004 crop, the Sec-
retary shall announce the program as soon as prac-
ticable after the date of enactment of this section.

“(c) PROGRAM.—

“(1) IN GENERAL.—Under an acreage limita-
tion program for a kind of tobacco announced under
subsection (b), the limitation shall be achieved by
applying a uniform percentage reduction to the crop
acreage base for the kind of tobacco for the crop for
active producers of tobacco that produce that kind
of tobacco, as determined by the Secretary.

“(2) COMPLIANCE.—

“(A) LOANS, PURCHASES, OR PAY-
MENTS.—A producer that knowingly produces a
kind of tobacco in excess of the permitted acre-
age for the kind of tobacco, or violate any lease
or transfer requirements of this Act, shall be in-
eligible for any loans, purchases, or payments
for the kind of tobacco.

“(B) PENALTIES.—

“(i) CRIMINAL PENALTY.—A producer
described in subparagraph (A) shall be
fined not more than \$100,000 or impris-
oned not more than 2 years, or both.

1 “(ii) CIVIL PENALTY.—A producer de-
 2 scribed in subparagraph (A) shall be sub-
 3 ject to a civil penalty in an amount not to
 4 exceed 2 percent of the value of the kind
 5 of tobacco produced by the producer dur-
 6 ing the applicable crop year, as determined
 7 by the Secretary.

8 “(iii) ADDITIONAL PENALTIES.—A
 9 civil penalty under clause (ii) for a viola-
 10 tion shall be in addition to any criminal
 11 penalty under clause (i) for the violation.

12 “(C) JURISDICTION TO PREVENT AND RE-
 13 STRAIN VIOLATIONS.—A United States district
 14 court shall have jurisdiction to prevent and re-
 15 strain the a producer from producing a kind of
 16 tobacco in excess of the permitted acreage for
 17 the kind of tobacco.

18 “(3) CROP ACREAGE BASES.—

19 “(A) IN GENERAL.—Subject to subpara-
 20 graphs (B) through (D) and paragraph (4), the
 21 crop acreage base for an active producer of to-
 22 bacco for a crop of each kind of tobacco shall
 23 equal the number of acres that is equal to—

24 “(i) in the case of the 2004 crop year,
 25 the average of the acreage planted and

1 considered planted by the active producer
 2 of tobacco to the kind of tobacco for har-
 3 vest in a traditional tobacco county in each
 4 of the 5 crop years preceding the crop
 5 year, as determined and adjusted by the
 6 Secretary (in consultation with the To-
 7 bacco Quality Board and the applicable
 8 Production Board); and

9 “(ii) in the case of each subsequent
 10 crop year, the number of acres planted and
 11 considered planted by the active producer
 12 of tobacco to the kind of tobacco for har-
 13 vest in a traditional tobacco county in the
 14 preceding crop year, as determined and ad-
 15 justed by the Secretary (in consultation
 16 with the Tobacco Quality Board and the
 17 applicable Production Board).

18 “(B) MAXIMUM CROP ACREAGE BASES.—

19 “(i) IN GENERAL.—Subject to clause
 20 (ii), the total quantity of acreage devoted
 21 to a kind of tobacco by active producers of
 22 tobacco during a crop year shall not exceed
 23 the total quantity of acreage devoted to the
 24 kind of tobacco by active producers during
 25 a crop year determined by the Secretary.

1 “(ii) ADJUSTMENT.—If the active pro-
 2 ducers of a kind of tobacco demonstrate to
 3 the Secretary that the application of clause
 4 (i) to a crop of a kind of tobacco will result
 5 in unbalanced supply and demand condi-
 6 tions, the Secretary may adjust the total
 7 quantity of acreage that may be devoted to
 8 the kind of tobacco by active producers
 9 during the crop year.

10 “(C) SALE, LEASE, OR TRANSFER OF CROP
 11 ACREAGE BASES.—An active producer of to-
 12 bacco shall not sell, lease, or transfer to another
 13 person a crop acreage base established for the
 14 active producer of tobacco under this para-
 15 graph.

16 “(D) REALLOCATION OF UNUSED CROP
 17 ACREAGE BASES.—

18 “(i) COUNTY POOL.—Subject to
 19 clauses (ii) and (iii), if an active producer
 20 of tobacco with a crop acreage base for a
 21 kind of tobacco elect not to use all or part
 22 of the crop acreage base to continue to
 23 produce that kind of tobacco, the unused
 24 crop acreage base shall be placed in a pool
 25 established for the traditional tobacco

1 county for reallocation by the Secretary to
2 other producers of that kind of tobacco in
3 the traditional tobacco county that request
4 the crop acreage base.

5 “(ii) STATE POOL.—Subject to clause
6 (iii), if any crop acreage base for a kind of
7 tobacco remains after the crop acreage
8 base is made available to producers of that
9 kind of tobacco in the traditional tobacco
10 county in a State under clause (i), the un-
11 used crop acreage base shall be placed in
12 a pool established for the State for re-
13 allocation by the Secretary to other pro-
14 ducers of that kind of tobacco in a tradi-
15 tional tobacco county.

16 “(iii) NEW PRODUCERS.—In reallo-
17 cating unused crop acreage bases for a
18 kind of tobacco in a traditional tobacco
19 county made available under each of
20 clauses (i) and (ii), the Secretary shall
21 make available to any new producers of
22 that kind of tobacco in the traditional to-
23 bacco county up to 10 percent of the crop
24 acreage bases available for reallocation for

1 the kind of tobacco in the traditional to-
2 bacco county.

3 “(4) COMPLIANCE WITH CERTAIN REQUIRE-
4 MENTS.—As a condition of the establishment of a
5 crop acreage base for active producers of tobacco for
6 a crop of a kind of tobacco, the active producers of
7 tobacco shall agree, during the crop year for which
8 the crop acreage base is established—

9 “(A) to comply with applicable conserva-
10 tion requirements under subtitle B of title XII
11 of the Food Security Act of 1985 (16 U.S.C.
12 3811 et seq.);

13 “(B) to comply with applicable wetland
14 protection requirements under subtitle C of title
15 XII of the Act (16 U.S.C. 3821 et seq.);

16 “(C) to use the land of the active producer
17 of tobacco, in a quantity equal to the crop acre-
18 age base for an agricultural or conserving use,
19 and not for a nonagricultural commercial or in-
20 dustrial use, as determined by the Secretary;
21 and

22 “(D) to effectively control noxious weeds
23 and otherwise maintain the land in accordance
24 with sound agricultural practices, as determined
25 by the Secretary, if the agricultural or con-

1 serving use involves the noncultivation of any
 2 portion of the land referred to in subparagraph
 3 (C).

4 **“CHAPTER 3—TOBACCO MARKET**
 5 **STABILITY PROGRAM**

6 **“SEC. 380M. TOBACCO MARKET STABILITY PROGRAM.**

7 “(a) IN GENERAL.—If during any consecutive 4-week
 8 period of a marketing year the world price for the crop
 9 of a kind of tobacco exceeds the average domestic price
 10 for the crop of the kind of tobacco (as determined by the
 11 Secretary, in consultation with the Tobacco Quality Board
 12 and the applicable Production Board), the Secretary shall
 13 make available to active producers of tobacco on a farm
 14 of the crop of the kind of tobacco market stability pay-
 15 ments for the marketing year in an amount obtained by
 16 multiplying—

17 “(1) the payment rate for the crop (as deter-
 18 mined under subsection (b)); and

19 “(2) the permitted acreage for the active pro-
 20 ducer of tobacco (as determined under section 380I).

21 “(b) PAYMENT RATE.—

22 “(1) IN GENERAL.—Subject to paragraphs (2)
 23 and (3), the payment rate for a crop of a kind of
 24 tobacco under this section shall be the amount by
 25 which—

1 “(A) the world price for the crop; exceeds

2 “(B) the domestic price for the crop.

3 “(2) WORLD PRICES.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the world price for each crop
6 of a kind of tobacco under this section shall be
7 determined by Secretary (in consultation with
8 the Tobacco Quality Board and the applicable
9 Production Board).

10 “(B) MINIMUM PRICE.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), the world price for
13 each crop of a kind of tobacco under this
14 section shall be not less than \$1.00 per
15 pound.

16 “(ii) REDUCTION.—The Secretary (in
17 consultation with the Tobacco Quality
18 Board and the applicable Production
19 Board) may reduce the world price for a
20 crop of a kind of tobacco under this section
21 below the amount specified in clause (i) if
22 the Secretary determines that such a re-
23 duction is necessary.

24 “(3) DOMESTIC PRICES.—The domestic price
25 for the crop of a kind of tobacco under this section

1 shall be determined by the Secretary, in consultation
2 with the Tobacco Quality Board and the applicable
3 Production Board.

4 “(c) DELIVERY THROUGH PRIVATE PROVIDERS.—

5 “(1) IN GENERAL.—The Secretary shall carry
6 out this section, to the maximum extent practicable,
7 through contracts with private insurance companies
8 and other private entities approved by the Secretary
9 (referred to in this section as ‘private providers’).

10 “(2) REIMBURSEMENT.—The Secretary shall
11 reimburse private providers for administrative ex-
12 penses incurred in carrying out this section, as de-
13 termined by the Secretary.

14 “(d) DELIVERY THROUGH LOCAL DEPARTMENT OF-
15 FICES.—If the Secretary determines (in consultation with
16 the Tobacco Quality Board) that there are an insufficient
17 number of private providers to carry out this section in
18 all or part of a State, the Secretary (acting through local
19 offices of the Department) shall carry out this section di-
20 rectly in all or part of the State.

21 “(e) ADJUSTMENTS.—After the Secretary announces
22 the terms and conditions of the tobacco market stability
23 program for a crop year, the Secretary shall consult with
24 the Tobacco Quality Board and the applicable Production

1 Board before making any change to the program for the
2 crop year.

3 “(f) ADDITIONAL COVERAGE.—The Secretary may
4 offer additional coverage to active producers of tobacco on
5 a farm of a crop of a kind of tobacco under this section
6 under which a higher level of price coverage is made avail-
7 able to the active producers of tobacco on the farm, in
8 exchange for an additional premium paid by the active
9 producers of tobacco on the farm.

10 “(g) ASSESSMENT.—

11 “(1) IN GENERAL.—Effective for each mar-
12 keting year for a kind of tobacco for which tobacco
13 market stability payments are made available under
14 this section, subject to paragraph (2) and section
15 380S(c)(1)(C), each producer and purchaser of that
16 kind of tobacco shall remit to the Commodity Credit
17 Corporation a nonrefundable marketing assessment
18 in an amount determined by the Secretary that is
19 sufficient to provide the payments for that kind of
20 tobacco.

21 “(2) AMOUNT.—The amount of producer and
22 purchaser assessments for a kind of tobacco under
23 this subsection—

24 “(A) shall be determined in such a manner
25 that producers and purchasers share equally, to

1 the maximum extent practicable, in paying as-
 2 sessments required under this subsection; and

3 “(B) shall not exceed 5 cents per pound.

4 “(3) COLLECTION.—The producer and purchaser as-
 5 sessments shall be—

6 “(A) collected in the same manner as provided
 7 for in section 106A(d)(2) or 106B(d)(3) of the Agri-
 8 cultural Act of 1949 (7 U.S.C. 1445–1(d)(2), 1445–
 9 2(d)(3)) (as in effect before the effective date of this
 10 subtitle), as applicable; and

11 “(B) enforced in the same manner as provided
 12 in section 106A(h) or 106B(j) of the Agricultural
 13 Act of 1949 (7 U.S.C. 1445–1(h), 1445–2(j)) (as in
 14 effect before the effective date of this subtitle), as
 15 applicable.

16 “(4) ENFORCEMENT.—The Secretary may enforce
 17 this subsection in the courts of the United States.

18 **“CHAPTER 4—TOBACCO COMMUNITY**

19 **ECONOMIC DEVELOPMENT GRANTS**

20 **“SEC. 3800. TOBACCO COMMUNITY ECONOMIC DEVELOP-** 21 **MENT GRANTS.**

22 “(a) IN GENERAL.—The Secretary shall make grants
 23 to eligible States in accordance with this section to pay
 24 the Federal share of the cost of carrying out economic de-
 25 velopment initiatives in impacted counties.

1 “(b) APPLICATION.—To be eligible to receive pay-
2 ments under this section, an eligible State shall prepare
3 and submit to the Secretary an application at such time,
4 in such manner, and containing such information as the
5 Secretary may require, including—

6 “(1) a description of the activities that the eligi-
7 ble State will carry out using amounts received
8 under the grant;

9 “(2) a designation of an appropriate State
10 agency to administer amounts received under the
11 grant; and

12 “(3) a description of the steps to be taken to
13 ensure that the funds are distributed in accordance
14 with subsection (e).

15 “(c) AMOUNT OF GRANT.—From the amounts avail-
16 able to carry out this section for an applicable fiscal year,
17 the Secretary shall allot to each eligible State an amount
18 that bears the same ratio to the amounts available as—

19 “(1) the reduction in gross receipts from the
20 sale of tobacco by tobacco producers in the eligible
21 State for the base period for the applicable fiscal
22 year as compared to the base period for fiscal year
23 2002; bears to

24 “(2) the reduction in gross receipts from the
25 sale of tobacco by tobacco producers in all eligible

1 States for the base period for the applicable fiscal
2 year as compared to the base period for fiscal year
3 2002.

4 “(d) PAYMENTS.—

5 “(1) IN GENERAL.—An eligible State that has
6 an application approved by the Secretary under sub-
7 section (b) shall be entitled to a payment under this
8 section in an amount that is equal to its allotment
9 under subsection (c).

10 “(2) FORM OF PAYMENTS.—The Secretary may
11 make payments under this section to an eligible
12 State in installments, and in advance or by way of
13 reimbursement, with necessary adjustments on ac-
14 count of overpayments or underpayments, as the
15 Secretary may determine.

16 “(3) REALLOCATION.—Any portion of the allot-
17 ment of an eligible State under subsection (c) that
18 the Secretary determines will not be used to carry
19 out this section in accordance with an approved
20 State application required under subsection (a) shall
21 be reallocated by the Secretary to other eligible
22 States in proportion to the original allotments to the
23 other eligible States.

24 “(e) USE AND DISTRIBUTION OF FUNDS.—

1 “(1) IN GENERAL.—Amounts received by an eli-
2 gible State under this section shall be used to carry
3 out economic development activities, including—

4 “(A) rural business enterprise activities
5 that are similar to activities described in sub-
6 sections (c) and (e) of section 310B of the Con-
7 solidated Farm and Rural Development Act (7
8 U.S.C. 1932);

9 “(B) down payment loan assistance activi-
10 ties that are similar to activities described in
11 section 310E of the Consolidated Farm and
12 Rural Development Act (7 U.S.C. 1935);

13 “(C) activities designed to help create pro-
14 ductive farm or off-farm employment in rural
15 areas to provide a more viable economic base
16 and enhance opportunities for improved in-
17 comes, living standards, and contributions by
18 rural individuals to the economic and social de-
19 velopment of impacted counties;

20 “(D) activities that expand existing infra-
21 structure, facilities, and services to capitalize on
22 opportunities to diversify economies in impacted
23 counties and that support the development of
24 new industries or commercial ventures;

1 “(E) initiatives designed to create or ex-
 2 pand locally owned value-added processing and
 3 marketing operations in impacted counties for
 4 agricultural commodities and products; and

5 “(F) technical assistance activities by per-
 6 sons to support farmer-owned enterprises, or
 7 agriculture-based rural development enterprises,
 8 that are similar to enterprises described in sec-
 9 tion 252 or 253 of the Trade Act of 1974 (19
 10 U.S.C. 2342, 2343).

11 “(2) DISTRIBUTION.—

12 “(A) ECONOMIC DEVELOPMENT ACTIVI-
 13 TIES.—Not less than 20 percent of the amounts
 14 received by an eligible State under this section
 15 shall be used to carry out—

16 “(i) economic development activities
 17 described in subparagraph (C) or (D) of
 18 paragraph (1); or

19 “(ii) agriculture-based rural develop-
 20 ment activities described in paragraph
 21 (1)(E).

22 “(B) TECHNICAL ASSISTANCE ACTIVI-
 23 TIES.—Not less than 10 percent of the amounts
 24 received by an eligible State under this section

1 shall be used to carry out technical assistance
2 activities described in paragraph (1)(F).

3 “(C) IMPACTED COUNTIES.—To be eligible
4 to receive payments for a fiscal year under this
5 section, an eligible State shall demonstrate to
6 the Secretary that funding will be provided,
7 during the fiscal year, for activities in each im-
8 pacted county in the eligible State, in amounts
9 that provide the greatest amount of funding for
10 impacted counties that have sustained the high-
11 est percentage reduction in gross receipts from
12 the sale of tobacco for the base period for the
13 applicable fiscal year, as compared to the base
14 period for fiscal year 2002.

15 “(f) PREFERENCES IN HIRING.—An eligible State
16 may require recipients of funds under this section to pro-
17 vide a preference in employment to an individual who, dur-
18 ing fiscal year 2003, was employed in the production,
19 manufacture, processing, or warehousing of tobacco or to-
20 bacco products, or resided, in an impacted county de-
21 scribed in subsection (e)(2).

22 “(g) FEDERAL SHARE.—A grant provided under this
23 section shall be for not more than 75 percent of the cost
24 of carrying out activities described in subsection (e).

1 **“CHAPTER 5—COMPETITIVE GRANTS FOR**
2 **TOBACCO RESEARCH**

3 **“SEC. 380Q. COMPETITIVE GRANTS FOR TOBACCO RE-**
4 **SEARCH.**

5 “(a) IN GENERAL.—Notwithstanding any other pro-
6 vision of law, the Secretary shall make competitive grants
7 under section 406 of the Agricultural Research, Exten-
8 sion, and Education Reform Act of 1998 (7 U.S.C. 7626)
9 to colleges and universities located in eligible States to
10 conduct research—

11 “(1) to assist tobacco producers to diversify
12 crops or implement other means to reduce or elimi-
13 nate the reliance of the producers on the production
14 of tobacco or to promote alternative uses of tobacco
15 or enhance the quality of tobacco produced in the
16 United States; and

17 “(2) to foster and facilitate development, eval-
18 uation, and implementation of economically viable
19 new agricultural technologies and enterprises for
20 rural communities.

21 “(b) GRANT DISTRIBUTION.—In making grants
22 under this section, the Secretary shall provide for an equi-
23 table distribution of the grants based on the volume of
24 each kind of tobacco that is produced in each eligible
25 State, as determined by the Secretary

1 **“CHAPTER 6—FUNDING**

2 **“SEC. 380S. TOBACCO TRUST FUND.**

3 “(a) ESTABLISHMENT.—There is established in the
4 Commodity Credit Corporation a revolving trust fund to
5 be used in carrying out this subtitle (referred to in this
6 section as the ‘Fund’), consisting of—

7 “(1) such amounts as are deposited in the
8 Fund under subsection (b);

9 “(2) such amounts as are necessary from the
10 Commodity Credit Corporation; and

11 “(3) any interest earned on investment of
12 amounts in the Fund under subsection (d).

13 “(b) DEPOSITS.—Revenues from assessments col-
14 lected under section 380T shall be deposited in the Fund.

15 “(c) EXPENDITURES.—

16 “(1) IN GENERAL.—Subject to paragraphs (2)
17 and (3) and notwithstanding any other provision of
18 law, in addition to any other funds that may be
19 available, the Secretary may use from the Fund such
20 amounts as the Secretary determines are nec-
21 essary—

22 “(A) to make payments to tobacco quota
23 holders and traditional producers under chapter
24 1;

1 “(B) to pay necessary expenses of the To-
2 bacco Quality Board and Production Boards
3 and to carry out the acreage limitation program
4 under chapter 2;

5 “(C) in addition to funds made available
6 under section 380M(g), to carry out the tobacco
7 market stability program under chapter 3, in an
8 amount equal to \$100,000,000 for each of fiscal
9 years 2005 through 2009;

10 “(D) to make tobacco community economic
11 development grants under chapter 4, in an
12 amount equal to \$100,000,000 for each of fiscal
13 years 2005 through 2009;

14 “(E) to make competitive grants for to-
15 bacco research under chapter 5, in an amount
16 equal to \$12,000,000 for each of fiscal years
17 2005 through 2009;

18 “(F) to make grants to each association
19 that has entered into a loan agreement with the
20 Commodity Credit Corporation under section
21 106A or 106B of the Agricultural Act of 1949
22 (7 U.S.C. 1445–1, 1445–2) (as in effect before
23 the effective date of this subtitle) to assist the
24 association to transition to alternative methods
25 of marketing tobacco in accordance with a plan

1 approved by the Secretary, with the grants allo-
 2 cated on the basis of the proportion of tobacco
 3 marketed by each association, in an amount not
 4 to exceed \$1,500,000 for each association for
 5 each kind of tobacco for each of fiscal years
 6 2004 through 2008;

7 “(G) to pay administrative costs incurred
 8 by the Secretary in carrying out this subtitle;
 9 and

10 “(H) to reimburse the Commodity Credit
 11 Corporation for costs incurred by the Com-
 12 modity Credit Corporation under paragraph
 13 (2).

14 “(2) EXPENDITURES BY COMMODITY CREDIT
 15 CORPORATION.—

16 “(A) IN GENERAL.—Subject to subpara-
 17 graph (B) and notwithstanding any other provi-
 18 sion of law, the Secretary may use funds of the
 19 Commodity Credit Corporation to make pay-
 20 ments under paragraph (1).

21 “(B) REIMBURSEMENT TO COMMODITY
 22 CREDIT CORPORATION.—Not later than Janu-
 23 ary 1, 2010, the Commodity Credit Corporation
 24 shall be reimbursed in full, with interest, for all

1 funds of the Commodity Credit Corporation ex-
 2 pended under subparagraph (A).

3 “(3) ADMINISTRATIVE EXPENSES.—An amount
 4 not to exceed \$20,000,000 for each fiscal year of the
 5 amounts in the Fund shall be available to pay the
 6 administrative expenses necessary to carry out this
 7 subtitle.

8 “(d) INVESTMENT OF AMOUNTS.—

9 “(1) IN GENERAL.—The Commodity Credit
 10 Corporation shall invest such portion of the Fund as
 11 is not, in the judgment of the Commodity Credit
 12 Corporation, required to meet current withdrawals.

13 “(2) INTEREST-BEARING OBLIGATIONS.—In-
 14 vestments may be made only in interest-bearing obli-
 15 gations of the United States.

16 “(3) ACQUISITION OF OBLIGATIONS.—For the
 17 purpose of investments under paragraph (1), obliga-
 18 tions may be acquired—

19 “(A) on original issue at the issue price; or

20 “(B) by purchase of outstanding obliga-
 21 tions at the market price.

22 “(4) SALE OF OBLIGATIONS.—Any obligation
 23 acquired by the Fund may be sold by the Com-
 24modity Credit Corporation at the market price.

1 “(5) CREDITS TO FUND.—The interest on, and
 2 the proceeds from the sale or redemption of, any ob-
 3 ligations held in the Fund shall be credited to and
 4 form a part of the Fund.

5 “(e) ADMINISTRATION.—In administering the Fund,
 6 the Secretary shall make payments, reimburse agencies of
 7 the Department, and accept deposits without regard to
 8 limitations on total amounts of allotments and fund trans-
 9 fers under section 11 of the Commodity Credit Corpora-
 10 tion Charter Act (15 U.S.C. 714i).

11 **“SEC. 380T. ASSESSMENTS.**

12 “(a) ANNUAL ASSESSMENT.—The Secretary, acting
 13 through the Commodity Credit Corporation, shall impose
 14 an annual assessment, calculated in accordance with this
 15 section, on each tobacco product manufacturer and to-
 16 bacco product importer that sells tobacco products in do-
 17 mestic commerce in the United States.

18 “(b) TOBACCO TRUST FUND.—Assessments collected
 19 under this section shall be deposited in the Tobacco Trust
 20 Fund.

21 “(c) ANNUAL ASSESSMENT FOR EACH CLASS OF TO-
 22 BACCO PRODUCT.—

23 “(1) TOTAL AMOUNT.—The total amount to be
 24 assessed, and paid by, the manufacturers and im-

1 porters of tobacco products shall be a total of
2 \$13,000,000,000 for all applicable fiscal years.

3 “(2) ANNUAL ALLOCATION BY CLASS OF TO-
4 BACCO PRODUCTS.—Subject to paragraphs (3) and
5 (4), the percentage of the total amount to be as-
6 sessed, and paid by, the manufacturers and import-
7 ers of each class of tobacco product in each applica-
8 ble fiscal year shall be—

9 “(A) for cigarette manufacturers and im-
10 porters, 98.303 percent;

11 “(B) for snuff manufacturers and import-
12 ers, 0.428 percent;

13 “(C) for chewing tobacco manufacturers
14 and importers, 0.098 percent;

15 “(D) for manufacturers and importers of
16 small cigars, 0.011 percent;

17 “(E) for manufacturers and importers of
18 large cigars, 1.095 percent;

19 “(F) for pipe tobacco manufacturers and
20 importers, 0.021 percent; and

21 “(G) for roll-your-own tobacco manufactur-
22 ers and importers, 0.044 percent.

23 “(3) ADJUSTMENTS.—Subject to paragraph
24 (4), the Secretary may adjust the percentage of the
25 total amount to be assessed, and paid by, the manu-

1 facturers and importers of a class of tobacco product
2 for an applicable fiscal year to reflect changes in the
3 relative market share of each class of tobacco prod-
4 ucts.

5 “(4) MINIMUM AMOUNT.—The total amount to
6 be assessed, and paid by, the manufacturers and im-
7 porters of each class of tobacco product in each ap-
8 plicable fiscal year shall not be less than the amount
9 required to carry out this subtitle during the appli-
10 cable fiscal year, as determined by the Secretary.

11 “(d) ALLOCATION OF TOTAL ASSESSMENTS BY MAR-
12 KET SHARE.—The amount of the assessment for each
13 class of tobacco product to be paid by each manufacturer
14 or importer of the class of tobacco product under sub-
15 section (a) shall be determined for each applicable fiscal
16 year by multiplying—

17 “(1) the market share of the manufacturer or
18 importer, as calculated with respect to the applicable
19 fiscal year, of the class of tobacco product; by

20 “(2) the total amount of the assessment for the
21 applicable fiscal year, under subsection (c), for the
22 class of tobacco product.

23 “(e) DETERMINATION OF VOLUME OF DOMESTIC
24 SALES.—

1 “(1) IN GENERAL.—The calculation of the vol-
 2 ume of domestic sales of a class of tobacco product
 3 by a manufacturer or importer, and by all manufac-
 4 turers and importers as a group, shall be made by
 5 the Secretary based on certified reports submitted
 6 by the manufacturers and importers pursuant to
 7 subsection (f).

8 “(2) MEASUREMENT.—For purposes of the cal-
 9 culations under this subsection and the certifications
 10 under subsection (f) by the Secretary, the volumes
 11 of domestic sales shall be measured by—

12 “(A) in the case of cigarettes, the numbers
 13 of cigarettes sold; and

14 “(B) in the case of each other class of to-
 15 bacco products, such unit as is specified by reg-
 16 ulation by the Secretary.

17 “(f) CERTIFICATION OF VOLUME OF DOMESTIC
 18 SALES.—

19 “(1) IN GENERAL.—Each manufacturer and
 20 importer of tobacco products shall submit for the
 21 base period for each applicable fiscal year a certified
 22 report to the Secretary of setting forth for each class
 23 of tobacco products marketed or imported the total,
 24 for the base period, of domestic sales of the tobacco
 25 products by the manufacturer and importer, respec-

1 tively, to wholesalers and retailers and directly to
2 consumers.

3 “(2) PENALTIES.—Any person that knowingly
4 fails to provide information required under this sub-
5 section or that provides false information under this
6 subsection shall be subject to the penalties described
7 in section 1003 of title 18, United States Code.

8 “(g) TERMINATION DATE.—The authority provided
9 by this section terminates on September 30, 2009.

10 **“SEC. 380U. COMMODITY CREDIT CORPORATION.**

11 The Secretary shall use the funds, facilities, and au-
12 thorities of the Commodity Credit Corporation to carry
13 out this subtitle, to remain available until expended.

14 **“SEC. 380V. TRANSITION PROVISIONS.**

15 “(a) TOBACCO STOCKS.—

16 “(1) IN GENERAL.—To provide for the orderly
17 disposition of quota tobacco held by an association
18 that has entered into a loan agreement with the
19 Commodity Credit Corporation under section 106A
20 or 106B of the Agricultural Act of 1949 (7 U.S.C.
21 1445–1, 1445–2) (referred to in this section as an
22 ‘association’), loan pool stocks for each kind of to-
23 bacco held by the association shall be disposed of in
24 accordance with this subsection.

1 “(2) ASSOCIATIONS.—For each kind of tobacco
 2 held by an association, the proportion of loan pool
 3 stocks for each kind of tobacco held by the associa-
 4 tion that shall be transferred to the association shall
 5 be equal to—

6 “(A) the amount of funds held by the asso-
 7 ciation in the No Net Cost Tobacco Fund and
 8 the No Net Cost Tobacco Account established
 9 under sections 106A and 106B of the Agricul-
 10 tural Act of 1949 (7 U.S.C. 1445–1, 1445–2),
 11 respectively, for the kind of tobacco; divided by

12 “(B) the average list price per pound for
 13 the kind of tobacco, as determined by the Sec-
 14 retary.

15 “(3) COMMODITY CREDIT CORPORATION.—Any
 16 loan pool stocks of a kind of tobacco of an associa-
 17 tion that are not disposed of in accordance with
 18 paragraph (2) shall be—

19 “(A) transferred by the association to the
 20 Commodity Credit Corporation; and

21 “(B) disposed of in a manner determined
 22 by the Secretary.

23 “(b) NO NET COST FUNDS.—

24 “(1) IN GENERAL.—Any funds in the No Net
 25 Cost Tobacco Fund or the No Net Cost Tobacco Ac-

1 count of an association established under sections
 2 106A and 106B of the Agricultural Act of 1949 (7
 3 U.S.C. 1445–1, 1445–2), respectively, that remain
 4 after the application of subsection (a) and sections
 5 106A and 106B of the Agricultural Act of 1949 (7
 6 U.S.C. 1445, 1445–1) (as in effect before the effec-
 7 tive date of this subtitle) shall be transferred to the
 8 association for distribution to members of the asso-
 9 ciation in accordance with a plan approved by the
 10 Secretary.

11 “(2) ASSOCIATIONS WITH NO LOAN POOL
 12 STOCKS.—In the case of an association that does not
 13 hold any loan pool stocks that are covered by sub-
 14 section (a)(2), any funds in the No Net Cost To-
 15 bacco Fund or the No Net Cost Tobacco Account of
 16 the association established under sections 106A and
 17 106B of the Agricultural Act of 1949 (7 U.S.C.
 18 1445–1, 1445–2), respectively, shall be transferred
 19 to the association for distribution to members of the
 20 association in accordance with a plan approved by
 21 the Secretary.”.

22 **SEC. 202. CONFORMING AMENDMENTS.**

23 Section 320B(c)(1) of the Agricultural Adjustment
 24 Act of 1938 (7 U.S.C. 1314h(c)(1)) is amended—

25 (1) by inserting “(A)” after “(1)”;

1 (2) by striking “by” at the end and inserting
2 “or”; and

3 (3) by adding at the end the following:

4 “(B) in the case of the 2003 marketing year,
5 the price support rate for the kind of tobacco in-
6 volved in effect under section 106 of the Agricultural
7 Act of 1949 (7 U.S.C. 1445) at the time of the vio-
8 lation; by”.

9 **TITLE III—IMPLEMENTATION**

10 **SEC. 301. REGULATIONS.**

11 (a) IN GENERAL.—The Secretary of Agriculture may
12 promulgate such regulations as are necessary to imple-
13 ment this Act and the amendments made by this Act.

14 (b) PROCEDURE.—The promulgation of the regula-
15 tions and administration of this Act and the amendments
16 made by this Act shall be made without regard to—

17 (1) the notice and comment provisions of sec-
18 tion 553 of title 5, United States Code;

19 (2) the Statement of Policy of the Secretary of
20 Agriculture effective July 24, 1971 (36 Fed. Reg.
21 13804), relating to notices of proposed rulemaking
22 and public participation in rulemaking; and

23 (3) chapter 35 of title 44, United States Code
24 (commonly known as the “Paperwork Reduction
25 Act”).

1 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-
2 MAKING.—In carrying out this section, the Secretary shall
3 use the authority provided under section 808 of title 5,
4 United States Code.

5 **SEC. 302. EFFECTIVE DATE.**

6 This Act and the amendments made by this Act shall
7 apply to the 2004 and subsequent crops of each kind of
8 tobacco.

Calendar No. 264

108TH CONGRESS
1ST SESSION

S. 1490

A BILL

To eliminate the Federal quota and price support programs for tobacco, to provide assistance to quota holders, tobacco producers, and tobacco-dependent communities, and for other purposes.

SEPTEMBER 2, 2003

Read the second time and placed on the calendar